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COMPTROLLER GENERAL OF THE UNITED STATES

222

WASHINGTON

SEP - 3 1931

The Honorable,

The Secretary of Agriculture.

Sir:

There were received in this office for filing in accordance with law certain contracts with the Mountain States Telephone & Telegraph Company and the Postal Telegraph-Cable Company purporting to provide for reimbursement to the company of certain estimated amounts as the cost of removing the poles and lines which interfered with the construction of new roads designated as Mountain Forest Road Projects Nos. 24-A, 26-A and 28-A, and in office letter dated June 15, 1931, the Chief of the Bureau of Public Roads was requested to inform this office as to the appropriation or other fund which was deemed available for making the reimbursement and for a statement as to whether these poles and lines were located on Federal or State lands. There has been received his letter of August 10, 1931, reporting that a part of the poles and lines were located on private lands and a part on public lands.

The contracts in question are as follows:

<u>Number</u>	<u>Contractor</u>	<u>Est. Amount</u>
A 4 pr-10292	Mountain States Tel. & Tel. Co.	\$362.72
A 4 pr-10293	Postal Telegraph-Cable Co.,	332.81
A 4 pr-10294	Mountain States Tel. & Tel. Co.	1800.00
A 4 pr-10295	" " " " " "	9094.00

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The poles to be removed under contract A 4 pr-10292 are reported to be on National forest land and two of the poles to be removed under contract A 4 pr-10294 are reported to be on National forest land. The remainder of the poles under contract A 4 pr-10294 and the poles to be removed under contract A 4 pr-10293 are reported to be located on private land, and apparently a part of the poles under contract A 4 pr-10295 are on National forest land.

A question of the removal of public utility lines on public property at the expense of the United States when their removal was made necessary because of their interference with road construction work was the subject of a decision dated July 22, 1931, A-36464, copy enclosed, wherein it was held that in the absence of specific statutory authority appropriations for the construction of roads and trails could not be used for the purpose of absorbing the expenses of removing public utility lines on public lands when they interfered with the paramount use of the United States. The placing of such lines on public lands must be understood as subject to the paramount needs and uses of the United States, and when their removal becomes necessary because of interference therewith the expenses of such removal may not be charged to the United States in the absence of specific statutory authority to that effect.

In view thereof, the claims for reimbursement of the cost of removal of poles under the contracts which provide for certain removals, in part from public lands and in part from private lands,

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should be transmitted to this office, with a report and recommendation, for direct settlement - the report showing the proportionate amount of the total expenditures which applied to the removal of the poles from private lands, where the removal was necessitated by the road project.

Respectfully,

(Signed) W. A. McCard

Comptroller General
of the United States.